

# THE CREDITORS REMEDIES ORDINANCE OF 1905. <sup>(1) (2)</sup>

## No. 3 of 1905.

### An Ordinance to extend the Remedies of Creditors.

**B**E it enacted by the Administrator of British New Guinea by and with the advice and consent of the Legislative Council thereof as follows:—

1. If a plaintiff in an action in the Central Court<sup>(3)</sup> shows to the satisfaction of the Chief Judicial Officer<sup>(4)</sup> or a plaintiff in an action in a Court of Petty Sessions to the satisfaction of the Resident Magistrate—

Plaintiff may in certain cases obtain order for arrest of defendant.

See Q. 31 Vic. No. 4, s. 48.

- (1) That he has a good cause of action against the defendant to the amount of thirty pounds or upwards;
- (2) That the defendant or one or more of the defendants is with intent to defeat the plaintiff's action about to leave the jurisdiction of the Central Court<sup>(3)</sup> or to proceed to remote parts of the Possession; and
- (3) That the action will be defeated unless such defendant be forthwith apprehended;

it shall be lawful for the Chief Judicial Officer<sup>(4)</sup> or the Resident Magistrate if in his discretion he considers it advisable to order such defendant to be arrested and held to bail for a sum to be specified in the order and not exceeding the amount claimed in the action.

2. Such an order or a copy thereof signed or purporting to be signed by the Chief Judicial Officer<sup>(4)</sup> or Resident Magistrate shall

Effect of order. Q. Ib. s. 49.

(1) Particulars of this Ordinance of British New Guinea (which was continued in force in the Territory of Papua by Section 6(1) of the *Papua Act 1905*) are as follows:—

Date of assent by Administrator.	Date on which published in British N.G. Govt. Gaz.	Date on which took effect.
7.9.1905	16.9.1905	16.9.1905 (Supplement to British N.G. Govt. Gaz. of 16.9.1905)

(2) *The Creditors Remedies Ordinance of 1905* as affected by the *Creditors Remedies Ordinance, 1921*, may be cited as the *Creditors Remedies Ordinance, 1905-1921*. See Section 1 of the *Creditors Remedies Ordinance, 1921*.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

(4) See Section 4 of the *Central Court Ordinance, 1925*.

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be a good and sufficient warrant to any Resident Magistrate or constable of police for the arrest and detention of the defendant; and the defendant when arrested shall (subject to the provisions of the Section 6) remain in custody until the determination of the action unless in the meantime he gives security to the satisfaction of the Chief Judicial Officer<sup>(4)</sup> or a Resident Magistrate that he will satisfy any judgment that may be given against him in the action or makes deposit of the amount specified in the order to abide the result of the action; in either of which cases he shall be entitled to immediate release.

Time at which order may be made.  
See Q. 31 Vic. No. 4, s. 50.

3. Any such order may be made and the defendant arrested in pursuance thereof at any time after the commencement of the action and before final judgment therein.

Arrest of judgment debtor.  
See Q. District Courts Act of 1867, s. 92.

4. Whenever any sum of money has been recovered by the judgment either of the Central Court<sup>(3)</sup> or of a Court of Petty Sessions and the judgment creditor shows to the satisfaction of the Court before which the judgment was recovered that the judgment debt is still unsatisfied; and either—

- (1) That the debt was fraudulently contracted; or
- (2) That the judgment debtor conceals any goods chattels money valuable securities or other property; or
- (3) That he has any income salary or means whereby he can satisfy the judgment; or
- (4) That he is about to remove any of his property or leave the Possession with intent to evade payment of the judgment debt;

it shall be lawful for the Court if the Court in its discretion considers it advisable to make an order that the judgment debtor be apprehended and be kept imprisoned for any term not exceeding six calendar months: Such an order or a copy thereof signed or purporting to be signed by the Chief Judicial Officer<sup>(4)</sup> or a Resident Magistrate shall be a good and sufficient warrant to any Resident Magistrate or constable of police for the arrest and detention of the judgment debtor.

Discharge on payment of judgment debt.  
Q. *Ib.* s. 93.

5. Any judgment debtor arrested under the provisions of the last section shall be entitled to his discharge on payment of the amount of the judgment debt and the gaoler in whose charge he may be for the time being is hereby empowered and required to receive the amount so paid and to transmit it to the Court in which judgment was recovered.

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(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(4) See Section 4 of the *Central Court Ordinance*, 1925.

*The Creditors Remedies Ordinance of 1905.*

6. It shall be lawful for any person arrested under this Ordinance to apply to the Chief Judicial Officer<sup>(4)</sup> for an order of discharge; and the Chief Judicial Officer<sup>(4)</sup> may thereupon order the release of the applicant upon such terms and conditions (if any) as he may think fit or may call upon the plaintiff to show cause why the applicant should not be released or may make such other order as he may think advisable.

Application to  
Chief Judicial  
Officer for  
discharge.

7. Imprisonment under this Ordinance shall not operate as a satisfaction of a debt or cause of action.

Imprisonment  
not a satisfaction  
of debt.

See Debtors Act  
(Imperial),  
1869, s. 5.

8. This Ordinance may be cited as *The Creditors Remedies Ordinance of 1905*.<sup>(1)</sup> In its construction "Resident Magistrate" includes Assistant Resident Magistrate.

Short title.

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(1) See footnote (1) printed on p. 827.

(4) See Section 4 of the *Central Court Ordinance, 1925*.

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